

# The implementation of the right to social insurance benefits in Poland

## (Realizacja prawa do świadczeń z ubezpieczenia społecznego w Polsce)

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**Abstract** – The authors have presented the main features of the reformed pension system in Poland – among others, they have discussed the importance of contributory periods, non-contributory periods and complementary periods; they have described the importance of interest rates of pension contributions and disability benefits, including the amount of disability benefit for a person who is completely incapable of work.

**Key words** - social insurance benefits, disability pension, Poland.

**Streszczenie** – Autorzy przedstawili główne założenia reformowanego systemu emerytalnego w Polsce, omówili m.in. znaczenie okresów składkowych, nieskładkowych i uzupełniających, scharakteryzowali znaczenie stopy procentowej składek na ubezpieczenie emerytalne, oraz świadczenia z ubezpieczenia rentowego, w tym wysokość renty dla osoby, która jest całkowicie niezdolna do pracy.

**Słowa kluczowe** - świadczeń z ubezpieczenia społecznego, ubezpieczenia rentowe, Polska.

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- A. The idea and the planning of the study
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### I. REFORM OF THE PENSION SYSTEM IN POLAND

Each person at a certain age becomes, for various reasons, incapable of work and earning money. Therefore, the state attempts to implement different methods of accumulating income in order to provide financial means for elderly people. The need to create a universal pension scheme has arisen. "The social objective of the pension scheme is to provide income for all people covered for the entire period following their retirement" [1,2,3].

Initially, the focus of pension schemes was to provide support to the elderly and infirm. In Bismarck's scheme which was in force at the end of the 19th century in Germany, the adopted retirement age was 70. Few lived up to that age. Nowadays, many people reach the retirement age and take advantage of the pension scheme. "The pension scheme is currently a tool for allocating income in one's life cycle, and not a manner of financing infirm old age" [2]. Therefore, a part of income is used for current expenses and the rest is saved for subsequent years.

"Pension is a benefit whose purpose is to provide means for subsistence in old age in case of incapacity for work resulting from age" [4]. Pension benefits are received by people from the moment of reaching a certain age and who can demonstrate a contributory and non-contributory employment period. Currently, eligible for pension are men aged 65 who have been employed at least 25 years and women aged 60 who have been employed at least 20 years.

Earlier retirement is possible. The conditions for earning the right to this type of benefit are stipulated in Article 29 of the Act of 17 December 1998 on Old-Age and Disability Pensions from the Social Insurance Fund (consolidated text, Journal of Laws of 2004, No. 39, item 353) [5]. The right to early retirement was granted to women over 55 years old with 30 years of a contributory and non-contributory period or 20 years of such a period and being completely incapable of further work. Men, in turn, may retire early when they are at least 60 years of age, when

they have 25 years of a contributory and non-contributory period, and when they are incapable of work.

**Contributory periods** refer to the time periods in which social insurance contributions are paid, which is specified in special provisions, as well as some periods before the 15th of November 1991, in which no contributions needed to be paid. Social insurance contributory periods involve the activity of priests, people in Polish underground formations and organisations, the police, staff of the Office for State Protection, Border Guard, Prison Service, and Fire Service. Contributory periods are also the time before the 15th of November 1991 when there was no obligation to pay social insurance contributions (employment upon reaching 15 years of age, remuneration obtained for hours worked, receiving sickness benefit, and maternity or care allowance. In specific cases, eligible for contribution periods are Polish citizens abroad, persons serving prison sentences in Poland, persons who do not work but who receive remuneration or a compensation based on the provisions of the Labour Code or who are unemployed, but who have taken up training, receive training benefits or unemployment benefits. Contributory periods are also due to MPs and senators in Poland, activists – creative people, artists, advocates, persons involved in outwork in Poland as well as to Polish citizens working in agricultural cooperatives and associations or in units of state-controlled economy. Contributory periods are also the time of drawing athletic scholarship in Poland upon reaching the age of 15 (unless the person received a scholarship during full-time studies).

When establishing the right to pensions and its amount, **non-contributory periods** are taken into account. It is a time when there is no professional activity, and therefore no social insurance contribution is paid. Non-contributory periods encompass the time of military service for Poland's independence, wartime and post-war repressions, service in Polish underground formations, internment periods, remaining on sickness benefit, care allowance, rehabilitation benefit, and sickness compensation. A non-contributory period is also when one does not work but receives compensation under the Labour Code as well as a period of parental leave due to looking after a child, a period of nursing care provided to a group 1 disabled war veteran, a period (of up to 6 years) of not working due to care provided to a family member being a group 1 invalid. A non-contributory period is the time of studying at a higher education institution in one field of study and graduating in time as well as the period of further professional training for doctors in medical clinics and research institutes, who work as volunteers (up to 1 year).

**“Complementary periods**, apart from contributory and non-contributory periods, are a time which may be added when determining the right to pension and its amount. These are periods of social insurance for farmers, related to managing a farm, and work in agriculture upon reaching 16 years of age” [6].

A new amendment of the act which has been in force since 30 June 2004 indicates that eligible for early retirement are insured persons who were employed before applying for pension and who have worked at least 6 months within the last 24 months or who were entitled to disability pension due to their incapability for work. Eligible for early retirement may be persons who were on railway workers' or miners' leaves as well as persons who upon the expiry of employment have paid contributions voluntarily under Article 10 of the social insurance system.

For a person to receive retirement pension, they must file a relevant application.

Certain social groups may be eligible for early retirement pension: disabled war veterans, members of the military, combatants, public servants, local government employees, soldiers of the alternative military service, and teachers.

Eligible for early retirement are people who worked in special conditions (miners, railway workers, and teachers). Special working conditions are considered to be such conditions which have an adverse impact on health, which are arduous, and which require considerable mental and physical fitness.

From January 1999, a new pension scheme has been in effect which contributes rights for all workers. “The system divides insurees into 3 age groups:

1. born before the 1st of January 1949,
2. born after the 31st of December 1948 and before the 1st of January 1969,
3. born after the 31st of December 1968.” [7]

The first age group comprises people over 50 years old (at the time when the reform entered into force) entitled to retirement pension. Women must be 60 years old and have a 20-year insurance period whereas men must be 65 years old and have a 25-year insurance period. Also, persons from the following group will be able to retire early: women – 55 years old (age) and 30 years (insurance period), men – 60 years old (age) and 25 years (insurance period) whose incapability for work has been acknowledged.

Mineworkers' pension applies to women aged 55 with 20 years of employment in the mining industry and to men aged 60 and with 25 years of employment.

Railway workers' pension applies to both men and women who are either 55 or 60 years old and who have at

least 20 or 25 years of contributory and non-contributory periods, including 15 years of work in the railway.

“In order to calculate the amount of pension for this age group, the rule remaining in force until now must be implemented: 24% of the basic amount is added to 1.3% of the basis of assessment for each contributory year, and then 0.7% of the basis of assessment for each non-contributory year is added, which is illustrated by the formula:

$$P = (24\% \times B) + (1.3\% \times B_{ac})n + (0.7\% \times B_{anc})n$$

In the formula: P – pension, B – basic amount,  $B_{ac}$  – basis of assessment for each contributory year,  $B_{anc}$  – basis of assessment for each non-contributory year considering full months, n – number of years”. [8]

Anyone born before the 1<sup>st</sup> of January 1949 who has reached retirement age and continued retirement insurance could submit an application for receiving the benefit under the new rules.

People born in the years 1949 – 1969 are in the second pension group and they are entitled to obtain benefits under the new rules. When they have reached the required age (60 or 65 years old) and the required amount composed of sums deposited into their ZUS [Social Insurance Institution] accounts in connection with their pension contributions, as well as based on the initial capital and the average life expectancy, they may join one of the open pension funds. They may also retire under the former rules or decide whether the entire contribution will remain in ZUS or part of it will be transferred to the open pension funds (“the second pillar”).

When the pension application was submitted in subsequent years, the pensions were appraised under both the “old” and “new” rules. If the application was submitted in 2009, 80% of the benefit was calculated under the “old” rules and 20% under the new rules. If the application was filed in 2010 – 70% of the benefit was appraised under the “old” rules and 30% based on the new rules. The proportions were modified for the subsequent five years and in the year 2013 only 20% of the pension was calculated according to the “old” system. People born after 1948, but before the 1st of January 1969, who submitted pension applications in later years will have it calculated under the new rules, similarly to persons who join the 2nd insurance pillar. The amount of pension for these persons will result from the capital accrued in the amount of the insured person (together with initial capital) and the average life expectancy while being a pensioner.

The third age group comprises persons born after 1968 who are entitled to pension under the new rules. “The con-

dition for obtaining the benefit is retirement age for women and men being 60 and 65 years respectively. In this group, there is no early retirement or pensions awarded irrespective of age.

For this group, the so-called bridging pension was established [9]. It refers to the amount being the result of dividing the basis of assessment by the average further life expectancy for persons of the same age as the retiring insured person. Life expectancy tables may be found in the communications of the President of the Central Statistical Office (GUS) in “Monitor Polski” until the 31st of March, 2012. However, the basis for assessment of pension is the sum of pension insurance contributions accrued in the individual ZUS account which are subject to indexation similarly to the initial capital assessed for insured persons who paid social insurance contributions before the 1st of January 1999.

It must be stated that the amount of pension in the new system depends on the funds accumulated in the insuree’s account as well as their retirement age. In order to regulate the value of contributions, the account balance is indexed using an index related to the increase in wages and prices.

“The interest rate of pension insurance contributions is the same for all insured persons and it amounts to 19.52% of the basis of assessment, from which the employees finance 9.76% and the contribution payer – the employer – finances 9.76%. If a given person obligatorily or voluntarily enters into an agreement with an open pension fund, then part of the insured person’s contribution (7.3% of the basis of assessment) is calculated by ZUS and transferred to the selected pension fund. Since the 1st of January 2009, the pension insurance contribution shall be reduced by 1%” [7].

“Since pension is held to be a benefit obtained in case of incapability for work due to old age, its purpose is to provide means of subsistence to a given person. If a person takes up additional work while on pension and they receive remuneration amounting up to 70% of the pension amount, their pension benefit is neither reduced nor suspended. However, if the income is between 70 and 130%, the pension benefits are reduced, and above 130% of the national average wage – the pension is completely suspended. When a woman has reached 60 years of age and a man has reached 65 years of age and they have found additional employment while taking advantage of pension benefits, their pension shall neither be reduced nor suspended” [10].

## II. DISABILITY PENSION BENEFITS

Disability is a benefit paid to an insured person incapable of work, and who has the required contributory

and non-contributory periods in which incapability for work arose. The ill person may be:

- completely incapable of work, cannot be involved into any paid employment, there is no prognosis of recovery; it is permanent incapacity,
- partially incapable of work, the person has lost the ability to work to a considerable extent, but there is a chance of recovery and taking up work; it is temporary incapacity.

Incapability for work and its degree is declared by a certifying physician of the Social Insurance Institution (ZUS). Only then the right to disability benefits arises.

Contributory and non-contributory periods are required to obtain disability pension:

- 1 year if incapacity for work has arisen before reaching 20 years of age,
- 2 years if incapacity for work has arisen at the age of 20 - 22 years,
- 3 years if incapacity for work has arisen at the age of 22 – 25 years,
- 4 years if incapacity for work has arisen at the age of 25 – 30 years,
- 5 years if incapacity for work has arisen at the age of over 30 years.

For a person incapable of work to receive disability pensions, incapacity must arise in the periods of:

- insurance,
- paying the established social insurance contributions,
- recognised insurance periods for priests – missionary work,
- active military service in the Polish Army or similar formations,
- service in the Police, Office for State Protection, Prison Service,
- Fire Service or the Customs Service,
- receiving maternity allowance,
- working abroad and return to Poland after the 22nd of July 1944 (persons considered repatriates),
- receiving sick pay (under the Labour Code),
- receiving sickness allowance,
- not performing work after employment has expired, if compensation was paid for this period,
- not working due to political repressions (before the 4th of June 1989),
- periods of parental leave or periods of care provided to a disabled war veteran occurring before the day of earning the right to pension,
- documented incapacity for work (unemployment benefits, training allowances, scholarships).

Incapacity for work must occur in these periods, and not later than within 18 months from expiry of these periods.

The basis of assessment for disability pension is the average basis of assessment for insurance contribution in the period of 10 calendar years. If the insured person has not reached 30 years of age, then the basis of assessment is calculated according to the basis of assessment for contributions in the actual period of insurance. The ill person may not obtain disability pension if they have not been insured for at least one calendar year.

The amount of disability pension due to a person completely incapable of work is the following:

- 24% of the basic amount being 100% of the average wage reduced by the social insurance contributions in the calendar quarter preceding the last indexation,
- 1.3% of the basis of assessment for each year of contributory periods,
- 0.7% of the basis of assessment for each year of non-contributory periods,
- 0.7% of the basis of assessment for each year of the period short of the complete 25 years of contributory and non-contributory periods counted from the day on which the application for disability pension was submitted to the day on which the pensioner would reach 60 years of age [11].

When calculating the amount of pension, the contributory periods are counted in full months. The pension payable to an ill person partially incapable of work amounts to 75% of pension awarded to a person completely incapable of work.

If the ill person has been found to be permanently incapable of work, they usually obtain pension on a permanent basis, whereas in case of temporary unfitness for work, pension is awarded on a temporary basis. There is also training allowance granted to a person incapable of work who may train to work in another profession. These may be 30 months at the most.

In order to obtain disability pension, an application must be submitted and it may be completed in the ZUS Rp-1 form. It is necessary to appoint a representative. It may be any person acting upon the interested person's consent. Under Article 125 of the act, the employer should be helpful in collecting the employee's documentation.

A person who has submitted the application and who applies for disability pension has the obligation to undergo the indicated medical examinations, attach documents confirming the contributory and non-contributory periods as well as employment and remuneration certificates (ZUS Rp-7 form), and a medical certificate. The employment certificate may take the form of a certificate issued by the

place of employment, these may be insurance cards or various company identity cards, trade union cards, employment agreements or entries in former personal identity cards. In difficult cases, these may be statements of witnesses when the person concerned does not have written documents.

If the person takes advantage of a sickness benefit and they may not take up employment, then his or her disability pension application must be submitted by the employer to the authority granting pension 30 days prior to expiry of the right to the sickness benefit.

The authority granting pension shall examine the application and documents appended and it shall issue a decision concerning the right to receive disability pension as well as specify its amount within 30 days. Sometimes, the person applying for disability pension does not submit documents related to assessing the amount of pension. In such a situation, an advance amount is granted which approximates the amount of the predicted benefit.

The disability pension granted is paid from the day on which the right to it arose and from the month in which the application was submitted or the decision was issued by the authority. The person concerned usually has the benefit paid into their bank account or obtains it at a designated savings and credit institution.

Apart from pension related to incapacity for work, there is the survivor's pension which covers the family members of a person who died but who was not entitled to old-age or disability pension or who received at the moment of their decease a pre-retirement allowance or benefit. Eligible for survivor's pension are family members: own children or the second husband's children, grandchildren if raised by the person concerned, siblings, other children, the spouse, and the parents including the stepfather and stepmother.

Children are entitled to survivor's pension by the time they reach 16 years of age and by the time they finish school education, and not longer than by 25 years of age. Eligible for pension are children irrespective of age provided that they are completely incapable of work and independent existence. A widow may receive survivor's pension if at the time of her husband's decease she was 50 years of age or she could not work, when she raised at least one child, grandchildren, and siblings who took advantage of survivor's pension. The specified age of the child is 16 years old, and if he or she continues education – 18 years. If the widow does not have any sources of income for subsistence and she does not meet the specified conditions, she may only receive temporary survivor's pension – for 1 year after her husband's decease. The amount of survivor's pension for one eligible person is 85% of the benefit which the

deceased would receive, for two eligible persons it is 90%, and for three and more it is 95% of the benefit. Based on the act on old-age and disability pensions, in case of decease of an insured person, old-age pensioner, disability pensioner or their family members, a funeral allowance is due to anyone who covered the cost of the funeral. This may be a family member, nursing home, municipality/commune, poviat, church or religious association. When the funeral costs have been covered by several persons, the allowance is divided proportionally. The allowance amounts to 200% of the average wage among national economy employees.

The application for allowance must be submitted within 12 months from the person's decease; the right to allowance expires after this period.

Due to incapacity for work, the pension may be suspended or reduced. If the pensioner is in prison, his or her pension is reduced to 75%. If they have family eligible for survivor's pension, the amount may be granted to the family. A pensioner remaining in prison may submit an application – then the entire sum may be transferred to their family.

The pension may be reduced or suspended in case of taking up additional work. It is paid in the full amount if the income is lower than 60% of the average wage.

When income does not exceed 120% of the average wage, the benefit is reduced accordingly and when it exceeds 120%, benefit payments are suspended.

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